

REMARKS

Reconsideration and withdrawal of the rejections/objections and allowance of all of pending Claims 1-50, is respectfully requested at this time.

By these amendments, applicants have amended patent Claims 1, 17 and 18. Specifically, the amendments to Claims 1, 17 and 18 consist of reciting the additive for (a) in terms of "consisting essentially of" components (b) and (c), rather than "comprised" thereof, and more specifically identifying the blowing agent mixed with the molten polymer as being a non-solid blowing agent comprised of a combination of atmospheric and organic gases. Applicants believe that, in the form allowed, original Claims 1, 17 and 18 may have been overbroad and rendered invalid by patentees' prior U.S. Patent Nos. 5,218,006; 5,302,624; 5,342,857; and 5,403,865, relating to processes, foams and masterbatch mixes wherein the masterbatch mix is comprised of alphas-methyl styrene and a rubbery-block copolymer, and wherein blowing agents such as sodium bicarbonate and monosodium citrate (as well as atmospheric gases) are used. Inclusion of the recitation that the blowing agent is a non-solid blowing agent comprised of a combination of atmospheric and organic gases also conforms the present application claims to those of applicants' prior U.S. Patent Nos. 5,269,987; 5,595,694; and 5,652,277.

Support for the amendments to Claims 1, 17 and 18 may be found throughout the specification and particularly the first sentence under the "FIELD OF THE INVENTION" (column 1), and in column 8, beginning with the second full paragraph referencing the non-solid blowing agent combinations of the present invention.

In view of the amendments to Claims 1, 17 and 18, applicants have also amended patent Claim 10, so that the process can further comprise a solid blowing agent.

Claims 19 and 33, added in the reissue application, have likewise been amended to recite that the additive "consists essentially of" rather than "comprises". Prior to the proposed amendment, the open-ended phraseology used with respect to the additive may have been overbroad and rendered Claims 19-50 invalid, also in view of applicants' prior U.S. Patent Nos. 5,218,006; 5,302,624; 5,342,857; and 5,403,865.

Applicants will now respond to each of the grounds of rejection/objection set forth in the May 25, 2001 Office Action.

In the Office Action on page 2, in paragraph 1., the Examiner stated that the Reissue Oath/Declaration filed with this application was defective because the error which was relied upon to support the reissue application was not an error upon which reissue can be based. In essence, the Examiner contended that the error supporting the reissue application was the failure to timely file a divisional application. The Examiner cited *In re Orita*, 550 F.2d 1277 (C.C.P.A. 1977).

The rejection/objection is respectfully traversed and reconsideration is requested.

At the outset, applicants note that none of the prior patents to have issued from this application contain claims directed to additives, per se. Therefore, applicants respectfully submit that the presently claimed additives could not have been subject to a restriction requirement and thus could not be said to now be claimed due to a failure to timely file a divisional application. Thus, it is believed that the basis for the rejection is in error, and that the rejection should be withdrawn.

Moreover, applicants note that in each of the prior applications to which a restriction requirement was directed, i.e., Serial no. 07/995,289; 08/163,010; and 08/702,922, those

restrictions requirements were all traversed by applicants, and applicants are not relying upon the failure to file a timely divisional application as the error upon which this reissue application is based. (See, attached Restriction Requirements/Responses at Tab A, B, C). The facts of this reissue application are believed to take it outside of *In re Orita* because, in that case, the restriction required between the two sets of claims was not traversed, and applicants realized that they had forsaken the opportunity to file a timely divisional application.

Here, on the other hand, the claims added in the reissue application, i.e. Claims 19-50, were not subject to a restriction requirement in any of the prior applications. Rather, the claims added in this reissue application are tied directly to the process claims which were patented in the patent for which reissue is sought. Therefore, the claims added in the reissue application are part and parcel of the same invention as the patented process claims and ought not to have been subject to a restriction requirement even if presented in parent application Serial no. 08/702,922 (U.S. Patent 5,817,261).

Based upon the foregoing, applicants believe that the rejection/objection to the Reissue Oath/Declaration filed with the application as defective due to an improper grounds for reissue has been overcome and should be withdrawn.

In the Office Action on page 2, paragraph 2, and page 3, paragraph 3, the Examiner contended that the Reissue Oath/Declaration filed with this application was defective because it failed to contain a statement that all errors which were being corrected in the reissue application up to the time of filing of the Reissue Oath/Declaration arose without any deceptive intent on the part of the applicants, and that the Reissue Oath/Declaration was further defective because it did not identify the mailing address of each inventor. Based upon these objections to the Reissue

Oath/Declaration, as well as the objection set forth on page 2, paragraph 1, in the Office Action on page 3, paragraph 4, Claims 1-50 were rejected as being based upon a defective reissue declaration.

The grounds for deficiency in the reissue Oath/Declaration, and the rejections of claims 1-50, are respectfully traversed and reconsideration and withdrawal are requested.

In response, applicants submit herewith a Revised Reissue Declaration which contains: (1) the mailing address of each inventor and (2) a statement that all errors which are being corrected in the reissue application up to the date of filing of the Revised Reissue Oath/Declaration arose without any deceptive intent on the part of the applicants. The Revised Reissue Declaration also now sets forth the further error leading to the proposed amendments to Claims 1, 10, 17, 18, 19 and 33.

Based upon the foregoing, applicants believe that the rejection/objection to the Reissue Oath/Declaration filed with the application due to the absence of mailing addresses and a statement that all errors being corrected arose without deceptive intention, should be withdrawn.

In the Office Action on page 3, paragraph 5, the Examiner objected to the preliminary amendment on the grounds that each amendatory change was not accompanied by an explanation of the support in the disclosure of the patent for the change. The objection is respectfully traversed and reconsideration is requested.

New Claims 19, 27-32, and 38-42 are supported by the original specification in column 6, beginning in the second full paragraph and continuing to the end of that column. New Claims 20-26 and 43-50 are supported by the specification as filed from column 7, first full paragraph through to column 8, end of first full paragraph. Finally, new Claims 33-37 are supported by the

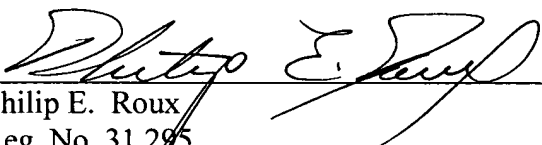
specification as filed, in column 5, in the first two full paragraphs under "DETAILED DESCRIPTION OF THE INVENTION".

Thus, applicants believe that each amendatory change is supported by the original disclosure of the patent, and the objection to the preliminary amendment is overcome and should be withdrawn.

Based upon the foregoing, applicants believe that all items raised in the May 25, 2001 Office Action have been responded to, and that the application is in condition for allowance and the same is respectfully requested. .

Date: November 26, 2001

Respectfully submitted,


Philip E. Roux
Reg. No. 31,295

Clifford Chance Rogers & Wells LLP
200 Park Avenue
New York, NY 10166-0153
Telephone: (212) 878-3153

A



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

3142-6

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
07/995,289	12/22/92	REEDY	M 14547-006

SHEA & GOULD
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1193

15M1

EXAMINER FOELAK, M	
ART UNIT	PAPER NUMBER
	5

1503
DATE MAILED:

EXAMINER INTERVIEW SUMMARY RECORD

05/12/93

All participants (applicant, applicant's representative, PTO personnel):

(1) Ms. Annette M. McGarry (3) _____
(2) _____ (4) _____

Date of interview 5/3/93

Type: ☒ Telephonic ☐ Personal (copy is given to ☐ applicant ☐ applicant's representative).

Exhibit shown or demonstration conducted: ☐ Yes ☒ No. If yes, brief description: _____

Agreement ☒ was reached with respect to some or all of the claims in question. ☐ was not reached.

Claims discussed: 1-6

Identification of prior art discussed: none

Description of the general nature of what was agreed to if an agreement was reached, or any other comments: agreed to the

Restriction Requirement with traverse. Elected the process claims.

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

Unless the paragraphs below have been checked to indicate to the contrary, A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW (e.g., items 1-7 on the reverse side of this form). If a response to the last Office action has already been filed, then applicant is given one month from this interview date to provide a statement of the substance of the interview.

☒ It is not necessary for applicant to provide a separate record of the substance of the interview.

☐ Since the examiner's interview summary above (including any attachments) reflects a complete response to each of the objections, rejections and requirements that may be present in the last Office action, and since the claims are now allowable, this completed form is considered to fulfill the response requirements of the last Office action.

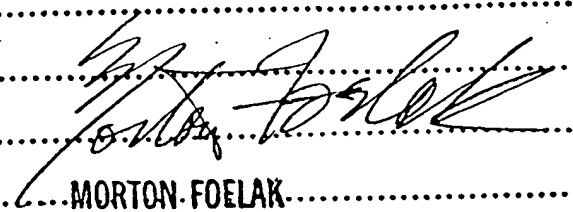
Examiner's Signature

STATEMENT OF REASONS FOR ALLOWANCE

ATTACHMENT IT
TO PAPER NO. 6

SERIAL NO. 995289

The claims meet the criteria of 35 USC 102, 103 and 112
since the claimed invention is neither taught nor suggested
by the prior art.



MORTON FOELAK
PRIMARY EXAMINER
GROUP 150-ART UNIT 153

Serial No. 995,289

-2-

Art Unit 1503

Examiner's Amendment

Requirement For Restriction

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1, 4 and 6, drawn to a process of foaming a styrene polymer composition by extrusion, classified in Class 264, subclass 50 or 54.

II. Claims 2, 3 and 5, drawn to a polystyrene foamed composition, classified in Class 521, subclass 139.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). In the instant case the claimed product could be made by a materially different process such as aqueous polymerization of the monomers in the presence of the polymers and thereafter foaming the composition.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Serial No. 995,289

-3-

Art Unit 1503

During a telephone conversation with Ms. Annette M. McGarry on May 3, 1993 a provisional election was made with traverse to prosecute the invention of Group I, claims 1, 4 and 6. Affirmation of this election must be made by applicant in responding to this Office action. Claims 2, 3 and 5 are withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention.

In accordance with applicant's instructions:

Claims 2, 3 and 5 have been deleted.

M. Foelak:jaw
May 4, 1993
(703) 308-2351

MORTON FOELAK
PRIMARY EXAMINER
GROUP 150-ART UNIT 153

B



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

3142-12

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/163,010	12/07/93	REEDY	

PHILIP E. ROUX
SHEA & GOULD
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1193

RECEIVED
SEP 15 1994
JUGHS & WELLS
D3M170908

M	14547012
EXAMINER	
KUHNS, A	
ART UNIT	PAPER NUMBER

1306
DATE MAILED: 09/08/94

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.
A shortened statutory period for response to this action is set to expire _____ month(s), 30 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☐ Notice of References Cited by Examiner, PTO-892.
2. ☐ Notice of Art Cited by Applicant, PTO-1449.
3. ☐ Information on How to Effect Drawing Changes, PTO-1474.

2. ☐ Notice of Draftsman's Patent Drawing Review, PTO-948.
4. ☐ Notice of Informal Patent Application, PTO-152.
6. ☐ _____

Part II SUMMARY OF ACTION

1. ☒ Claims 2, 3, 5 AND 7-39

Of the above, claims _____ are pending in the application.

2. ☒ Claims 1, 4 AND 6

3. ☐ Claims _____ are withdrawn from consideration.
4. ☐ Claims _____ have been cancelled.
5. ☐ Claims _____ are allowed.
6. ☐ Claims _____ are rejected.
7. ☐ Claims _____ are objected to.

8. ☐ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
9. ☐ Claims 2, 3, 5 AND 7-39 are subject to restriction or election requirement.

10. ☐ Formal drawings are required in response to this Office action.
11. ☐ The corrected or substitute drawings have been received on _____ Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

12. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
13. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

14. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____
15. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

16. ☐ Other

Call Up Date 10/5/94 Atty. PER
Statutory Date 2/8/95
By B
EXAMINER'S ACTION

Art Unit 1306

1. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 2, 3 and 5, drawn to an alkenyl aromatic foam, classified in Class 521, subclass 91.

II. Claims 7-39, drawn to a method of extruding an alkenyl aromatic foam, classified in Class 264, subclass 50.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process such as one in which the foamable composition is cast into a mold of desired shape.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art requiring divergent fields of search for the respective inventions, restriction for examination purposes as indicated is proper.

4. A telephone call was made to Philip E. Roux on August 3, 1994 to request an oral election to the above restriction requirement, but did not result in an election being made.

Serial No. 08/163,010 .

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Art Unit 1306

5. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan R. Kuhns whose telephone number is (703) 308-3462.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.

Allan R. Kuhns

ALLAN R. KUHN
PRIMARY EXAMINER
GROUP 1306

9-7-94

ark
September 7, 1994

3142-12

Docket No.: 3142-12

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Hon. Commissioner of Patents and Trademarks, Washington, D.C. 20231, on

Date: October 10, 1994

Signature: [Signature]

ROGERS & WELLS

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT OPERATION**

In re Application of:
Michael E. Reedy
Edward W. Rider, Jr.

Serial No.: 08/163,010

Group Art Unit: 1306

Filing Date: December 7, 1993

Examiner: A. Kuhns

For: PROCESS FOR PRODUCING ALKENYL AROMATIC FOAMS USING A
COMBINATION OF ATMOSPHERIC AND ORGANIC GASES AND FOAMS
PRODUCED THEREBY

New York, NY 10166-0153
October 10, 1994

Hon. Commissioner of Patents
and Trademarks
Washington, DC 20231

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In response to the restriction requirement dated
September 8, 1994, kindly amend the above identified application
as follows:

IN THE CLAIMS:

Cancel Claims 2,3 and 5, without prejudice.

REMARKS

Reconsideration and withdrawal of the restriction
requirement are respectfully requested.


In the Office Action on page two, first full paragraph (1.), restriction to one of the following inventions was required under 35 U.S.C. §121:

- I. Claims 2, 3 and 5, drawn to an alkenyl aromatic foam, classified in Class 521, subclass 91; and
- II. Claims 7-39, drawn to a method of extruding an alkenyl aromatic foam, classified in Class 264, subclass 50.

In response, applicants respectfully traverse the restriction requirement on the grounds that applicants believe the Group I claims, i.e., Claims 2, 3 and 5, are not patentably distinct from the Group II claims, i.e., Claims 7-39. Specifically, applicants believe that a search of the prior art directed to either the Group I or Group II claims would uncover all of the relevant prior art directed to the other group of claims. Therefore, because applicants believe that the examiner will conduct such a thorough examination and review of the prior art, all the relevant prior art directed to both groups of claims will be uncovered and the claims should be examined together. To do otherwise merely serves to increase costs to applicants and the Patent Office. Therefore, applicants respectfully request that the examiner reconsider the restriction requirement, withdraw the same and examine both groups of claims together.

In the event that the examiner disagrees with applicants position and adheres to the restriction requirement, applicants hereby provisionally elect the Group II claims, i.e., Claims 7-39 for further examination.

Respectfully submitted,


Philip E. Roux
Registration No. 31,295

MAILING ADDRESS:

ROGERS & WELLS
200 Park Avenue
New York, New York 10166-0153
Telephone: (212) 878-3153



3,42-27

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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02/742,922

08/26/96

REEDY

M

3142/27

PHILIP E. ROUX
ROGER A. WELLS
200 PARK AVENUE
NEW YORK, NY 10166-0153

APPLYING

EXAMINER

FURUS, A

ART UNIT

PAPER NUMBER

1306

4

DATE MAILED:

01/06/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 30 DAYS month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 7-9 is/are pending in the application
- Of the above, claim(s) _____ is/are withdrawn from consideration
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claims 7-9 are subject to restriction or election requirement

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e) 3142-27

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

-- SEE OFFICE ACTION ON THE FOLLOWING PAGES --

Art Unit: 1306

1. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claim 7, drawn to a polymer composition, classified in Class 525, subclass 88.

II. Claim 8, drawn to a process for producing a closed-cell polymer foam, classified in Class 264, subclass 51.

III. Claim 9, drawn to a polymer foam, classified in Class 521, subclass 139.

2. The inventions are distinct, each from the other because of the following reasons:

The composition of Group I is distinct from the method of Group II and the foam of Group III because the composition as claimed can be used to produce a product which is not expanded or foamed.

Inventions II and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process such as one in which ingredients of the polymer foam are introduced into an appropriately shaped mold and are allowed to expand within the mold to form a polymer foam.

Art Unit: 1306

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art requiring divergent fields of search for the respective inventions, restriction for examination purposes as indicated is proper.

4. A telephone call was made to Philip E. Roux on December 30, 1996 to request an oral election to the above restriction requirement, but did not result in an election being made.

5. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Kuhns whose telephone number is (703) 308-3462. The examiner can normally be reached on Monday through Thursday from 7:00 AM to 5:30 PM.

Serial Number: 08/702,922

-4-

Art Unit: 1306

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Robert Dawson, can be reached on (703) 308-2340. The fax phone number for this Group is (703) 305-3601.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.

Allan R. Kuhns
Allan R. Kuhns
Primary Examiner
Art Unit 1306

A. Kuhns
December 31, 1996

12-31-96

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, **BOX NON FEE AMENDMENT**, Washington, D.C. 20231, on

Date: February 5, 1997

Signature: *Deborah C. Roberts*

DEBORAH C. ROBERTS.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Michael E. Reedy and Edward W. Rider, Jr.

Serial No. : 08/702,922 Group Art Unit: 1306

Filed : August 26, 1996 Examiner: A. Kuhns

For : **PROCESS FOR PRODUCING ALKENYL AROMATIC FOAMS USING
A COMBINATION OF ATMOSPHERIC AND ORGANIC GASES AND
FOAMS PRODUCED THEREBY**

200 Park Avenue
New York, New York 10166
February 5, 1997

Assistant Commissioner of
Patents
BOX NON FEE AMENDMENT
Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

SIR:

In response to the Restriction Requirement dated January 6, 1997, applicants make the following remarks.

REMARKS

Reconsideration and withdrawal of the Restriction Requirement is respectfully requested.

In the Office Action on Page 2, first full paragraph, restriction to one of the following inventions was required under 35 U.S.C., §121:

- I. Claim 7, drawn to a polymer composition, classified in Class 525, subclass 88.
- II. Claim 8, drawn to a process for producing a closed-cell polymer foam, classified in Class 264, subclass 51.
- III. Claim 9, drawn to a polymer foam, classified in Class 521, subclass 139.

In the remarks which followed, the Examiner set forth the grounds for the position that the inventions are distinct, each from the other. The requirement for restriction is respectfully traversed and reconsideration is requested.


The three groups of claims, directed to a foamable polymer composition, a process for producing a closed-cell polymer foam, using that foamable composition, and the polymer foam, are clearly all interrelated. More to the point, process Claim 8 depends from Claim 7 and incorporates therein the foamable composition of Claim 7, while Claims 7 and 9 each recite similar compositions, one being foamable, with the other being a foam. Due to the interrelated nature of the three claims, applicants believe that a search of the art directed to any one of the inventions, would uncover all of the art relevant to the other inventions. For this reason, applicants believe that all of the groups of claims should be considered and examined together. To do otherwise merely serves to increase the costs and burdens to both the Patent

Applicant: Michael E. Reedy
and Edward W. Rider
Information Disclosure Statement
Serial No.: 08/702,922
Page 3

Office and applicants. Thus, applicants believe that the three groups of claims should be examined together and that the Restriction Requirement should be withdrawn.

In the event that the Examiner adheres to the Restriction Requirement, applicants provisionally elect the group two invention, i.e., Claim 8, drawn to a process for producing a closed-cell polymer foam. Applicants recognize that if the Restriction Requirement is adhered to, Claim 8 will need to be placed in independent form, by incorporating the foamable polymer composition recited in Claim 7, and that a minor typographical error in Claim 8 (the word "a" before the word "mixing" should be deleted in Claim 8, line 3) will need to be effected.

Respectfully submitted,



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